IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.
WRIT PETITION No.2543 OF 1995.

1. Maratha Samaj Seva Mandal,
Solapur, through : President.

2. Chhatrapati Shivaji Night Junior
College, Solapur, through
Principal. ..
PETITIONERS.

VERSUS.

1. Dilip Namdeo Jadhav,
residing at C/o S.S.Bhosale,
338, Sukrawar Peth,Solapur.

2. Education Officer,Secondary,
Solapur Zilla Parishad,Solapur.

3. Deputy Director of Education,
Pune Region, Pune.

4. The State of Maharashtra,

..RESPONDENTS.

Mr.M.R. Deshpande, Advocate for Petitioner.
Mr.S.D. Thokade for Respondent No.1.
Ms.V.S. Mhaispurkar,A.G.P.for Respondent
Nos. 2 to 4.

CORAM:R.M.S.KHANDEPARKAR,J.
DATED:9TH NOVEMBER, 2006.

ORAL JUDGMENT:

1. Heard.

2. The petitioners challenge the impugned judgment and order dated 16th December,1992

passed by the School Tribunal whereby the Appeal filed by the respondent no.1 has been allowed and order of termination of his services by the petitioners has been set aside.

3. Facts relevant to the decision are that the respondent no.1 joined the services of the petitioner as part-time Lecturer under order dated 10.7.1986 issued by the petitioners. Thereafter, as there was clear and permanent vacancy, the respondent no.1 came to be appointed after following regular procedure for selection of the candidate and order of his appointment was issued on 14th June,1987. After having rendering services of about five years same were sought to be terminated by the petitioners by its order dated 17th January,1992.

4. The said order of termination is,therefore, challenged by way of Appeal by the respondent. By the impugned order the Tribunal set aside the said order and directed reinstatement of the respondent no.1. While assailing the impugned order, the learned

counsel appearing for the petitioners submitted that the respondent no.1 was appointed on daily wages and,therefore, the Tribunal erred in holding that the respondent no.1 was appointed in permanent vacancy. It is pertinent to note that the petitioners have conveniently chosen to suppress the order of appointment as well as order of termination of services from the Court as no copy of either of the order has been annexed to the petition. When specific query regarding order of appointment to the learned Advocate for the petitioners was made, he expressed his helplessness to produce any copy of such order of appointment for the perusal of the Court. In the background of these facts, therefore, unless the petitioners are able to point out that the findings arrived at by the Tribunal are totally perverse, question of interference in exercise of the Writ Jurisdiction under Article 227 of the Constitution does not arise at all. The findings by the Tribunal disclose that the respondent no.1 was appointed in permanent vacancy after following due procedure regarding selection of the candidates and for that respondent has

completed probation period and he had become permanent employee of the petitioner. Yet his services were sought to be terminated on 17th January, 1992. Neither there was any charge-sheet issued nor enquiry was held before terminating services of the respondent no.1. Further, findings disclose that even in the course of hearing of the Appeal before the Tribunal, the petitioners were not able to point out either any mis-conduct on the part of the respondent no.1 or his services being unsatisfactory. In any case, once the respondent no.1 was held to have become permanent teacher, it was not permissible for the petitioners to terminate services of the respondent no.1 without issuing charge-sheet and without holding necessary enquiry in the matter.

5. Being so, no fault can be found with the impugned order setting aside the order of termination of services of the respondent no.1 which has been apparently passed illegally and without following the prescribed procedure of law. Hence there is no case made out to interfere in the impugned order. Therefore,

petition fails. Petition dismissed. Rule is discharged. No order as to costs.

[R.M.S.KHANDEPARKAR,J]